

IN THE ALABAMA COURT OF THE JUDICIARY

IN THE MATTER OF:

TRACIE TODD
CIRCUIT JUDGE,
BIRMINGHAM DIVISION
CRIMINAL DIVISION
JEFFERSON COUNTY, AL

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CASE NO. 58

FILED

DEC 14 2021

COURT OF THE JUDICIARY
Rebecca C. Oates
Secretary

JUDICIAL INQUIRY COMMISSION'S MOTION FOR
CLARIFICATION, OR IN THE ALTERNATIVE,
MOTION FOR TAXING COSTS

COMES NOW, the Judicial Inquiry Commission (hereinafter "the Commission") and hereby moves this Honorable Court for clarification of whether its December 3, 2021, Final Judgment includes taxing the Commission's costs, or alternatively, moves for taxing costs in this matter. As grounds for its motion, the Commission states as follows:

1. The December 3, 2021, Final Judgment states that "Judge Todd is also taxed with the Court of the Judiciary's costs for this proceeding."

2. The Commission requests clarification on whether the judgment includes taxing the Commission's costs.

3. The Commission's costs, if taxed and recovered, are reimbursed back into the State of Alabama's General Fund.

4. In Alabama, the general rule with respect to recovery of costs is that costs are properly taxable to the losing party in civil litigation. Merchants Nat'l Bank v. Cowley, 89 So. 2d 616, 625 (Ala. 1956) (citing Dozier v. Payne, 14 So. 2d 376, 377 (Ala. 1943)); Ala. R. Civ. P. 54(d).

5. The Supreme Court of Alabama has previously upheld the Alabama Court of the Judiciary's decision to award costs to the Commission under Rule 54(d) in an action brought by the Commission. See Ex parte Strickland, 401 So. 2d 33 (Ala. 1981).

6. Although no Alabama statute or rule lists the specific items that may be covered under a motion to tax costs, Alabama courts have held that the term "costs" includes court reporter's fees, expenses for depositions, travel expenses, copying costs, and filing fees. State Dept. of Human Res. v. Estate of Harris, 857 So. 2d 818, 820 (Ala. Civ. App. 2002) (internal citations omitted).

7. Alternatively, if the Commission's costs were not included in the judgment, then the Commission requests that its costs be taxed to Judge Todd in the amount of \$1,785.30. See Ex. A.

8. All depositions listed in the attached exhibit were necessary for the preparation of the Commission's case.

WHEREFORE, premises considered, the Commission respectfully requests that this Honorable Court clarify whether its December 3, 2021, Final Judgment includes taxing the Commission's costs, or alternatively, tax Judge Todd with the Commission's costs in this matter.

Respectfully submitted this the 14th day December, 2021.

/s/ Elizabeth C. Bern

Elizabeth C. Bern

/s/ John A. Selden

John A. Selden

/s/ Jacob D. Jackson

Jacob D. Jackson

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CERTIFICATE OF SERVICE

I hereby certify that I have, on this 14th day of December, 2021, electronically filed the foregoing with the Court of the Judiciary, and that I have further served a copy upon the following by placing same in the United States Mail, postage prepaid and properly addressed and/or via email as follows:

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Circuit Judge Tracie Todd

Costs as of December 14, 2021

<u>Transcript Costs/ Court Reporter Appearance Fee</u>	<u>Date</u>	<u>Amount</u>
C. M.	12/13/2018	331.20
C. G.		
K. P.	2/8/2019	269.10
S. S.		
T. N.	3/15/2019	93.15
Appearance Fees		300.00
<u>Deposition Costs</u>	10/19/2021	791.85
Cetonia McCoy		
Courtney Roberts		
Glenda Lewis		
Sammie Shaw		
	TOTAL	\$1,785.30

EXHIBIT A